

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES,)	
Appellee,)	
)	App. No. 07-1575
v.)	
)	Crim. No. 04-10336-NMG
JULIO CARRION SANTIAGO,)	
Defendant/Appellant.)	
_____)	

ORDER

GORTON, J.

Before the Court is the motion of the defendant/appellant Julio Carrion Santiago for leave to proceed in forma pauperis on appeal.

In the case before the district court, Santiago was represented by retained counsel. In his motion, Santiago states that paying for trial counsel depleted all of his assets, and that, because he is has been incarcerated for three years, his only income consists of gifts from family members and his prison employment (\$5.25 per month). Santiago acknowledges that he has received \$906.00 from his family in the past six months, but he represents that this was a one-contribution made by his family members, and that they pooled together their meager sums when Santiago was sentenced and transferred to a federal prison in Virginia. Santiago's financial affidavit shows that his only asset what is in his prison account--\$235.65. He represents in the affidavit that he still owes money to his trial counsel.

Santiago also states that the \$455.00 fee for his appeal was paid by a personal friend. This friend has since experienced financial difficulties and has asked Santiago if the \$455.00 she paid to the Court can be refunded to her.

Upon examining the motion and the financial affidavit and prison account statement therewith, the Court concludes that Santiago is qualified for in forma pauperis status. The Court therefore grants the motion to for leave to appeal in forma pauperis. The Court will not, however, authorize the return of the appeal fee. Santiago has not identified, and the Court has not discovered, any precedent supporting such a request.¹

The Clerk shall transmit a copy of this Order to the United States Court of Appeal for the First Circuit.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated: 10/2/07

¹See Walker v. O'Brien, 216 F.3d 626, 638 n.5 (7th Cir. 2000) (denying request for return of portion of appellate fees paid by indigent habeas petitioners, and noting that "by definition, a prisoner was able to pay anything that he or she has already paid").